SEIU

CALIFORNIA STATE COUNCIL

SERVICE EMPLOYEES NTERNAIONAL UNION

1007 7th Street
4th Floor
Sacramento, CA 95814
916.442.3838
Fax: 916.442.0976

3055 Wilshire Blvd.
Suite 1050
Los Angeles, CA 90010
213.368.7400
Fax: 213.381.7348

7677 Oakport Street
Suite 725
Oakland, CA 94621
510.568.2500
Fax: 510.568.3652

TO: STATE THE HONORABLE BILL LOCKYER, CALIFORNIA TREASURER

MICHAEL C. GENEST, CALIFORNIA DEPARTMENT OF FINANCE

FROM: TAMARA RASBERRY, GOVERNMENT RELATIONS ADVOCATE

DATE: MARCH 17, 2009

RE: $10 BILLION BUDGET TRIGGER

The following comments are submitted on behalf of SEIU for you to consider the availability of federal funds per Government Code Section 99030. These comments are not final and SEIU reserves the right to submit additional testimony by March 24, 2009.

1. Fiscal Analysis
2. Trigger Impact on SEIU Homecare Members
3. Trigger Impact on other SEIU Members

be available and that the Legislature has already chosen to take advantage of. Indeed how could it be otherwise? Neither the Director of Finance nor the Treasurer nor indeed any individual can know with certainty precisely what Medi-Cal caseload will be between now and June 30, 2010. Based on historical information about the levels of caseload during recessions, estimates can be made about what caseload *may* be but there can be no certainty.

Sufficient Funds

AB3x 16 (c) states that "If, on or before April 1, 2009, the Treasurer and the Director of Finance determine that *sufficient* federal funds have been made available, the Director of Finance immediately shall notify, in writing, the Joint Legislative Budget Committee and the Controller of this determination."

This language does not require that the Treasurer and the Director of Finance determine that a specific amount may be available. Instead it requires that "sufficient" federal funds are available. Again, given the uncertainties inherent in a budget plan, how could it be otherwise? While estimates may be made of Medi-Cal caseload, certainty is not possible. Similarly, the Legislative Analyst recently estimated that the fiscal outlook portends an additional revenue decline of $8 billion and that one way for the Legislature and the Governor to help to resolve this new shortfall would be to use part of the education block grant to backfill Proposition 98. Just as with obtaining enhanced FMAP, use of the education block grant would require legislative action that has not yet occurred, but so long as the best available estimates show that these funds will be available and "may" be used to offset expenditures, the funds *must* be counted under AB3x 16.

Estimates of Available Funds

Although the precise figures may still be in dispute, it is clear that the provisions of the federal stimulus act will make available more than sufficient federal funds to meet the test of AB3x 16.

We are hampered in developing a more detailed analysis by the failure of the Department of Finance to provide its methodology and background for its estimates. On several key points, the Department of Finance estimates are substantially at variance with other estimates.

In addition, unfortunately, on a number of key points, the Legislative Analyst's Office relied on the estimates of the Department of Finance, failing to develop its own estimates. This is particularly troublesome with respect to the estimate for FMAP. Accordingly, we will update our analysis as more information becomes available.

Our current estimates are as follows:

1. State Fiscal Stabilization Fund:

public hospitals, In-Home Supportive Services, and local mental health programs. Again, we are hampered because we have not received the DOF methodology. DOF estimates that 17.5% of FMAP should be passed down to the county governments. This may or may not be correct.

Other estimates by other parties produce estimates of the funds to be passed through to local government that are somewhat lower than those produced by DOF. This would have the effect of increasing FMAP available to offset the General Fund.

If the DOF analysis is correct, this reduces the FMAP available to offset the General Fund from $8.7 billion to $7.18 Billion.

d. Cost of Eligibility Change: Mid-year status reports for children.

The cost of eliminating the mid-year status reports is estimated at $91.9 million. The DOF books this cost against the availability of FMAP. LAO instead says that FMAP can be used to offset this General Fund cost. It is for this reason that the LAO analysis finds $6.4 billion available in FMAP funding instead of $6.3 billion. We concur with LAO on this point, although not on its reliance on the DHCS analysis.

e. Medi-Cal Caseload

Given the high levels of unemployment, it is virtually certain that the Medi-Cal caseload has increased substantially. DHCS *must* provide an updated estimate of the Medi-Cal caseload, based on current information, so that the AB3X 16 determination can be made. This should increase California's FMAP though by how much is not known yet.

f. FMAP estimate.

Our current estimate is that at least $7.2 billion will be available in FMAP funding.

3. Other Funds: TANF, other funds in federal fiscal stimulus:

DOF estimates $458 million in other federal fiscal stimulus funds. LAO estimates $423 million will be available.

4. Education Block Grant

a. Overall: $4.875 billion

The overall education block grant is $4.875 billion with $3.8 billion available in the relevant period if funding is level over the nine quarters.

b. Higher Education: University of California, California State University System

> amounts will depend on revised estimates developed in May, we recommend that the Legislature take this general approach for the Proposition 98 budget. (p.24)

Again, AB3X 16 requires the Treasurer and the Director of Finance to make a determination about the amount of available federal funds that *may* be used to reduce expenditures. Just as obtaining enhanced FMAP funding would require a change in statute and just as the precise amount of FMAP funding cannot be known because caseload is not known until after the fact, so too must a determination be made of the amount of federal stimulus education block grant funds that *may* be used to offset General Funds, given the magnitude of the revenue shortfall, even though the reduction would require further action by the Legislature and the amount of the potential expenditure reduction the Legislature could make will be an estimate.

For these reasons, we estimate that more than $10 billion in additional federal funds will be available that may be used to offset General Fund Expenditures.

Fund Summary:

SFSF:	$1.1
FMAP:	$7.2
TANF, Other	$0.5
Higher Ed	$0.5
K-12	$3.0
Total:	$12.3 billion

conversely found that when wages did not keep up with the cost of living retention increased by only 3 percent. In 2007 Ms. Howes told a legislative body, "For there to be a sufficient workforce to meet the needs of (IHSS) consumers, workers must be paid livable wages."

The cap on the state participation of IHSS wages and the increased share-of-cost for HIS consumers will undoubtedly disrupt the delivery of services to those who need care in their homes. SEIU represents almost 93,000 homecare workers in 16 counties that currently pay at or above $9.50/hour. All of these counties are in Northern California, several with the highest cost of living in California (the highest wage is Santa Clara county, $12.35/hour). We assume that a reduction in the state match will not be backfilled by the counties, effectively lowering all wages to $9.50/hour. During these difficult economic times, workers facing a 25 percent wage cut will leave homecare to find a comparable paying job. An unstable, reduced workforce will not sustain the growing needs of an aging population.

The cut in IHSS tied to the trigger will not only reduce jobs, but may violate several entitlements guaranteed to Medi-Cal recipients. In 1999, the US Supreme Court's landmark decision in *Olmstead vs. L.C.* instructed states to exercise due diligence in providing community based services for persons with disabilities who would otherwise be entitled to institutional services. Forcibly condensing the availability of providers for in-home care and adding a burdensome share-of-cost to consumers may not only violate *Olmstead*, but may create a barrier to an entitled Medi-Cal benefit.

Specifically, the change in the share of cost is a violation of the maintenance of effort provisions of the federal stimulus act. This act expressly provides that states can only receive enhanced FMAP if the state has in place the "eligibility standards, methodologies and procedures" in effect on July 1, 2008. The change in share of cost proposed in SBx3 6 (Ducheny) is precisely the kind of change in eligibility methodology or procedure that the language in the federal statute was intended to prevent. Thus action that would put in place such a cut endangers enhanced FMAP, putting at risk more than $10 billion in federal aid to California.

For these reasons, we believe that the cuts to home care would constitute irreparable harm---to the clients, to the workers and to the taxpayers of California. The cuts to home care constitute irreparable harm to those clients who would face increased share of cost and those who would face destabilization of their care because their care provider might be forced to seek other employment because of the wage cuts. The cuts would also constitute irreparable harm to almost 100,000 home care workers who would have their wages cut to $9.50 an hour, a cut in some instances of as much as 20% of their wages. Taxpayers also face the risk that more than $10 billion in federal matching funds are put at risk by the State of California pursuing the change in eligibility through the share of cost.

The Treasurer and the Director must carefully consider the implications of this determination. President Obama and the US Congress passed the American Recovery

TRIGGER IMPACT ON OTHER SEIU MEMBERS

SEIU represents 700,000 across several industries including health, education, and the public sector. The information below details how the other trigger cuts affect our members and their respective industries.

SSI/SSP Cuts

SEIU opposes the cuts to SSI/SSP as proposed by the trigger. Most recipients of IHSS also receive a SSI/SSP grant. In some instances, our homecare workers are family members of those who receive the grant. Unfortunately, SSI/SSP is the only source of income for many of our IHSS clients.

The 2009-10 budget Act reduced the grant from $907 to $870 per month. The cuts enacted by the trigger would further reduce that grant $20/month for an individual and $35/month for a couple. Imagine living off of $850 per month. Sadly, for 1.3 million Californians that is a reality.

Medi-Cal Optional Benefits

The elimination of adult dental coverage through Medi-Cal will eliminate dental coverage for over 3 million parents, seniors and adults with disabilities who depend on Medi-Cal for their health care coverage.

The elimination of adult dental coverage is also projected to collapse the network of dental providers under Medi-Cal and also Healthy Families. This will have the secondary effect of denying access to dental care for almost four million children who depend on Medi-Cal and Healthy Families.

This means that at least 3 million adults and as many as 7 million Californians will lose access to dental care. This will cause real harm to those Californians.

Because dental care can be deferred, many of those who lose access will wait to get care until they are in extreme pain. When that moment arises, they will show up in our county hospitals, county clinics and community clinics, with severe dental problems.

In the already overcrowded emergency rooms of our county hospitals, the waiting rooms of our county clinics and community clinics, filled with the uninsured that have lost coverage due to the recession, people with avoidable dental pain will wait for care. Some of them will die. Others will have care that costs far more than it should. A cut of $122 million may well cost far more than that. As the California Association of Public Hospitals says in its comments, public hospitals provide more than half the hospital care to the uninsured, even though public hospitals represent only 6% of hospital beds.

The other Medi-Cal optional benefits are even less cost-effective: podiatry care can be provided less expertly and at greater cost by physicians. The same is true of optometry. And while the elimination of incontinence creams may seem a mere inconvenience, for